FILED
APR 1 - 2015

NOS. 14-562, 14-556, 14-571, 14-574

IN THE

Supreme Court of the United States

BRITTANI HENRY, ET AL.,

Petitioners,

v.

RICHARD HODGES,

Respondent.

JAMES OBERGEFELL, ET AL.,

Petitioners,

v.

RICHARD HODGES,

Respondent.

(Additional Case Captions Listed on Inside Front Cover)

On Writs of Certiorari to the United States Court of Appeals for the Sixth Circuit

Amicus Curiae Brief of Parents and Friends of Ex-Gays & Gays Supporting Respondents

Dean R. Broyles, Esq.
Counsel of Record
THE NATIONAL CENTER FOR LAW & POLICY
539 West Grand Avenue
Escondido, California 92025
(760) 747-4529
dbroyles@nclplaw.org
Counsel for Amicus Curiae

APRIL DEBOER, ET AL.,

Petitioners,

v.

RICHARD SNYDER, ET AL.,

Respondents.

VALERIA TANCO, ET AL.,

Petitioners,

v.

WILLIAM EDWARD "BILL" HASLAM, ET AL.,

Respondents.

TIMOTHY LOVE, ET AL. AND GREGORY BOURKE, ET AL.,

Petitioners,

v.

STEVE BESHEAR,

Respondents.

QUESTIONS PRESENTED

1. **Does the Fourteenth Amendment require a state to license a marriage between two people of the same sex?**

2. **Does the Fourteenth Amendment require a state to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state?**

TABLE OF CONTENTS

QUESTIONS PRESENTED i

TABLE OF AUTHORITIES iv

INTEREST OF AMICUS CURIAE 1

SUMMARY OF ARGUMENT 1

ARGUMENT 3

I. Sexual orientation is not an immutable characteristic "determined solely by the accident of birth" and, thus, cannot be a suspect class 3

II. Recognition of ex-gays as a group, by government authorities and other organizations, undermines the assertion that sexual orientation is immutable.....4

III. The life stories of thousands of ex-gays evidences that sexual orientation is not an immutable characteristic 7

A. Stephen Black's Story.....8

B. Richard Cohen's Story 11

C. Melissa A. Ingraham's Story 16

D. Kristin J. Tremba's Story.....21

IV. The ex-gay community is subject to more animus than any other minority group 24

CONCLUSION 30

TABLE OF AUTHORITIES

Cases **Page(s)**

DeBoer v. Snyder,
772 F.3d 388 (6th Cir. 2014).....24, 30

Frontiero v. Richardson,
411 U.S. 677 (1973).....3, 4

Gomez v. Perez,
409 U.S. 535 (1973).....3

Graham v. Richardson,
403 U.S. 365 (1971).....3

Lyng v. Castillo,
477 U.S. 635 (1986) 3

McLaughlin v. Florida,
379 U.S. 184 (1964) 3

Oyama v. California,
332 U.S. 633 (1948) 3

Parham v. Hughes,
441 U.S. 347 (1979) 3

Perry v. Schwarzenegger,
704 F. Supp. 2d 921 (N.D. Cal. 2010).....1

PFOX v. Government of the District Office of Human Rights, No. 2008 CA 003662, slip. op. (D.C. June 26, 2009) 4

Plyler v. Doe,
457 U.S. 202 (1982) 3

Quiban v. Veterans Administration,
928 F.2d 1154 (D.C. Cir. 1991) 3

Reed v. Reed,
404 U.S. 71 (1971) 3

Romer v. Evans,
517 U.S. 620 (1996).....25

Schweiker v. Wilson,
450 U.S. 221 (1981) 4

U.S. v. Windsor,
133 S.Ct. 2675 (2013).....25, 29

Ward v. Polite,
667 F.3d 727 (6th Cir. 2012).....24

Other Materials

American Association for Retired People (AARP) recently published an article telling the stories of senior adults whose sexual attractions and identifications changed over time (Dr. Pepper Schwartz, "Can Sexual Preference Change With Age?" http://www.aarp.org/home-family/sex-intimacy/info-2014/gay-lesbian-sexual-preference-

schwartz.html?intcmp=AE-HOME-TOENG-TOGL).....6

African American ex-gay Grammy winner Donnie McClurkin removed from singing at Martin Luther King memorial concert following complaints by gay leaders (http://www.christianpost.com/news/ex-gay-community-baptist-leadership-say-dc-officials-are-infringing-on-pastors-civil-rights-102212).....27

District of Columbia Superior Court orders the D.C. Office of Human Rights to recognize ex-gays as a protected class for purposes of sexual orientation nondiscrimination (June 26, 2009), (http://pfox.org/Court-Rules-Sexual-Orientation-Laws-Include-Former-Homosexuals.html).....5

Chirlane McCray no longer identifies as a lesbian after marrying and having family with New York City Mayor Bill de Blasio (http://nypost.com/2012/12/11/bill-wife-speak-out; http://observer.com/2012/12/the-lesbian-past-of-bill-de-blasios-wife).....6

Ex-gays are reviled, ridiculed, and marginalized (http://www.christianpost.com/news/former-gay-activist-marries-woman-addresses-critics-who-condemn-his-new-heterosexual-lifestyle-110736).....26

Former homosexuals targeted because they exist (http://www.nytimes.com/2011/06/19/magazine/my-ex-gay-friend.html?pagewanted=all&_r=0).....26

Gay leaders criticize presidential candidate Barack Obama for allowing Donnie McClurkin to sing at a fundraiser and insist he drop the singer from the program (http://www.youtube.com/watch?v=A3jkeTdgLrg)...28

Gay, Lesbian and Straight Education Network (GLSEN), American Association of School Administrators, and the Association for Supervision and Curriculum Development Guidelines include recognition of ex-gays. (http://nea-exgay.org/2006/03/15/sexual-orientation-consensus-guidelines-include-ex-gays).....6

Gay rights groups are wielding their considerable political power to aggressively oppose and outlaw counseling and therapy for men, women and children who struggle with unwanted same-sex attraction. These activities, carried on by organizations such as The National Center for Lesbian Rights (http://www.nclrights.org/explore-the-issues/bornperfect/), Southern Poverty Law Center (http://www.splcenter.org/conversion-therapy) And Human Rights Campaign (http://pfox-exgays.blogspot.com/2012/05/wacky-wayne-besen.html).....29

Montgomery County - Maryland public schools superintendent acknowledges the contributions of an ex-gay representative on the district's Citizens Advisory Committee for Family Life and Human Development (2011) (http://pfox-exgays.blogspot.com/2011/10/letter-posted.html).....5

NEA recognizes Ex-Gay Educators' Caucus (http://nea-exgay.org/about/)..... 6

PepsiCo's Corporate Counsel issues opinion memorandum on December 28, 2012 confirming ex-gays are protected from workplace sexual orientation discrimination (http://pfox.org/CivilRights.pdf).....5

Recent judicial victories in same-sex marriage cases have empowered animus by equating the legalization of same-sex marriage with the justification that ex-gays should therefore be banished from society and not allowed to participate in the public square of ideas and commerce (http://www.huffingtonpost.com/alec-fischer/this-is-what-happened-whe_1_b_6068712.html).....30

U.S. Department of Education's former Assistant Secretary of Safe and Drug Free Schools Kevin Jennings agrees on June 8, 2011 that ex-gays should not be discriminated against during outreach efforts for students with unwanted same-sex attractions (http://www.prnewswire.com/news-releases/departing-safe-schools-czar-met-with-pfox-to-discuss-ex-gays-123447044.html).....5

Washington D.C. Mayor Adrian Fenty, in response to complaints from gay organizations, apologized for issuing a certificate of appreciation to an ex-gay organization. Yet in signing gay marriage legislation for the nation's capital, the mayor had promised equality for all D.C. residents (http://voices.washingtonpost.com/dc/2010/04/fenty_apologizes_for_honoring.html).....28

World Bank removed Amicus Parents and Friends of Ex-gay & Gays, a non-profit corporation, from its charitable fundraising program after receiving complaints from the Human Rights Campaign, (http://www.hrc.org/press-releases/entry/hrc-to-world-bank-remove-pfox-from-your-community-connections-campaign).....28

INTEREST OF AMICUS CURIAE[1]

Amicus Parents and Friends of Ex-Gays & Gays ("PFOX") is a national non-profit organization that has supported, since its inception, many thousands of families of individuals with unwanted same-sex attraction who have made the personal decision to leave homosexuality. PFOX advocates for the ex-gay community and educates the public about sexual orientation. PFOX appears as *amicus* to address the purported immutability of homosexuality, which is relevant to whether this Court should declare that sexual orientation is a new suspect class. PFOX affirms sexual orientation is a fluid, transient, personal characteristic, and that individuals can and do change their sexual orientation.

SUMMARY OF ARGUMENT

This brief confirms the growing recognition of the ex-gay community by the courts, government bodies, and business entities and presents the real-life, personal stories of four individuals who have done exactly what the district court in *Hollingsworth v. Perry*[2] concluded was impossible: they chose to

---

[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution to the preparation or submission of this brief. Letters from all parties consenting to the filing of this brief have been submitted to the Clerk.

[2] Finding of fact No. 46 stated: "Individuals do not generally choose their sexual orientation. No credible evidence supports a finding that an individual may, through conscious decision, therapeutic intervention or any other method, change his or her sexual orientation." *Perry v. Schwarzenegger*, 704 F. Supp. 2d

change their sexual orientation and now live in opposite-sex relationships despite having been previously deeply entrenched in same-sex relationships. The stories demonstrate that, in fact, sexual orientation is not immutable—either in the sense that it is a trait determined solely by "accident of birth" or in the sense that it cannot be changed—but is a fluid, transient, personal characteristic that can and does change.

The issue is important because a finding that sexual orientation is immutable could lead this Court to declare it a new "suspect class" for purposes of the Equal Protection Clause, which is unwarranted. Such a declaration could improperly subject state laws or state Constitutional provisions to "strict scrutiny" rather than the existing, legally appropriate, "rational basis" review.

This brief does not detail the extensive medical and scientific evidence corroborating that sexual orientation in changeable and mutable, as that issue is thoroughly briefed by *Amicus* Dr. Paul McHugh, M.D., University Distinguished Service Professor of Psychiatry at the Johns Hopkins University School of Medicine. Rather, this brief personalizes the scientific and medical evidence via powerful biographical stories representing the actual experiences of many thousands of former homosexuals. It concludes with a discussion of the significant animus ex-gays experience, largely at the hands of gays, as a result of the unwarranted commitment to the gay immutability narrative.

921, 966 (N.D. Cal. 2010).

ARGUMENT

I. Sexual orientation is not an immutable characteristic "determined solely by the accident of birth" and, thus, cannot be a suspect class.

As expounded in Professor McHugh's brief, sexual orientation fails this Court's standard for heightened scrutiny because it is not immutable. Every class to which the Supreme Court has applied heightened scrutiny is defined by an immutable characteristic. *Parham v. Hughes*, 441 U.S. 347, 351 (1979) (*citing McLaughlin v. Florida*, 379 U.S. 184 (1964) (race); *Oyama v. California*, 332 U.S. 633 (1948) (national origin); *Graham v. Richardson*, 403 U.S. 365 (1971) (alienage); *Gomez v. Perez*, 409 U.S. 535 (1973) (illegitimacy); *Reed v. Reed*, 404 U.S. 71 (1971) (gender)). Moreover, the Supreme Court has refused to apply heightened scrutiny to classes that are not marked by an immutable characteristic. *E.g.*, *Plyler v. Doe*, 457 U.S. 202, 220 (1982) (undocumented aliens); *Lyng v. Castillo*, 477 U.S. 635, 639 (1986) (close relatives). The Court's jurisprudence makes clear that immutability is a necessary condition for recognizing a new protected class.

The Court's precedents teach that immutability denotes a characteristic "determined solely by the accident of birth." *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973). As then-Judge Ginsburg explained, "the 'immutable characteristic' notion . . . does not mean, broadly, something done that cannot be undone. Instead, it is a trait 'determined solely by accident of birth.'" *Quiban v. Veterans*

Administration, 928 F.2d 1154, 1160 n.13 (D.C. Cir. 1991) (*quoting Schweiker v. Wilson*, 450 U.S. 221, 229 n. 11 (1981)).

Far from being an immutable characteristic determined at birth like race or gender, sexual orientation is a complex and amorphous phenomenon that defies consistent and uniform definition. The evidence embodied in this brief adds to the scholarly record amassed by Professor McHugh to show that, however defined, sexual orientation can shift over time and does shift for a significant number of people. Indeed, many individuals freely choose to change their sexual orientation. Thus, while the nature and determinants of sexual orientation are not fully understood, sexual orientation is *mutable* for purposes of Equal Protection analysis, as it is not "determined solely by accident of birth." *Frontiero v. Richardson*, 411 U.S. 677, 686 (1973) (plurality).

II. Recognition of ex-gays as a group, by government authorities and other organizations, undermines the assertion that sexual orientation is immutable.

In addition to the compelling personal stories of ex-gays discussed below, a growing number of governmental authorities, organizations, and influential individuals recognize the existence of ex-gays; that is, that there are individuals who have successfully changed their sexual orientation and are now living as heterosexuals even though they once lived as homosexuals.

In *PFOX v. Government of the District Office of Human Rights*, No. 2008 CA 003662, slip. op. at 12

(D.C. June 26, 2009), the District of Columbia Superior Court ordered the D.C. Office of Human Rights to recognize ex-gays as a protected class for purposes of sexual orientation nondiscrimination (http://pfox.org/Court-Rules-Sexual-Orientation-Laws-Include-Former-Homosexuals.html).

Likewise, Kevin Jennings, former Assistant Secretary of Safe and Drug Free Schools, U.S. Department of Education, agreed in 2010 that ex-gays should not be discriminated against during outreach efforts for students with unwanted same-sex attractions (http://www.prnewswire.com/news-releases/departing-safe-schools-czar-met-with-pfox-to-discuss-ex-gays-123447044.html).

The superintendent of Montgomery County, Maryland public schools, the 17th largest school district in the United States, in 2011 acknowledged the contributions of an ex-gay representative who served on the district's Citizens Advisory Committee for Family Life and Human Development (http://pfox-exgays.blogspot.com/2011/10/letter-posted.html).

On December 28, 2012, PepsiCo, a Fortune 500 company, by and through its legal counsel, acknowledged in a written legal opinion memorandum that its workplace policy against sexual orientation discrimination includes non-discrimination against former homosexuals as a protected class (http://pfox.org/CivilRights.pdf).

According to Charles Haynes, primary drafter of the Public Schools and Sexual Orientation Consensus Guidelines released by the First Amendment Center, the ex-gay viewpoint in public schools should be heard. The Guidelines are endorsed by the Gay, Lesbian and Straight

Education Network (GLSEN), American Association of School Administrators, and the Association for Supervision and Curriculum Development. (http://nea-exgay.org/2006/03/15/sexual-orientation-consensus-guidelines-include-ex-gays). And every year, the National Education Association's officially recognized Ex-Gay Educators Caucus participates in and hosts a booth at the NEA's conference (http://nea-exgay.org/about).

Chirlane McCray, a former lesbian, is married to New York City Mayor Bill de Blasio. In 1979, McCray wrote a front-page article for Essence magazine declaring, "I am a lesbian." But she met Mr. de Blasio, fell in love, and began a family with him. She no longer identifies as lesbian (http://nypost.com/2012/12/11/bill-wife-speak-out; http://observer.com/2012/12/the-lesbian-past-of-bill-de-blasios-wife).

Amicus has on its website the video-recorded testimony of twenty three former homosexuals telling their personal stories of how they came to identify as ex-gay (http://www.pfox.org/personal-stories), including the journeys of former homosexuals whose identical twins did not experience same-sex attraction.[3] Transformation of same-sex attraction is so well recognized that the American Association for Retired People (AARP) recently published an article telling the stories of senior adults whose sexual attractions and identifications changed over time (Dr. Pepper Schwartz, "Can Sexual Preference Change With Age?" http://www.aarp.org/home-family/sex-

[3] https://vimeo.com/100937787; https://vimeo.com/84169427

intimacy/info-2014/gay-lesbian-sexual-preference-schwartz.html?intcmp=AE-HOME-TOENG-TOGL). The article notes that some who identified as heterosexuals experience same-sex attractions as senior adults, while some who identified as gay or lesbian later experience opposite-sex attraction.

III. The life stories of thousands of ex-gays evidences that sexual orientation is not an immutable characteristic.

Any assertion that homosexuality is immutable is perhaps best disputed by the existence of a multitude of organizations in the United States and around the world who, like *Amicus*, have helped thousands of men and women leave unwanted homosexuality, change their orientation, and live heterosexual lives.[4] Below are the stories of four

---

[4] In addition to *Amicus*, a partial list of the other organizations who in the United States and around the world provide assistance to those desiring to change their orientation is as follows: Courage (www.couragerc.net); The German Institute for Youth and Society (www.dijg.de); Homosexual Anonymous (www.ha-fs.org); International Healing Foundation (www.comingoutloved.com); Jews Offering New Alternatives for Healing, Inc. (http://jonahweb.org); Alliance for Therapeutic Choice and Scientific Integrity (www.therapeuticchoice.com); Restored Hope Network - (www.restoredhopenetwork.com); Voices of Change (www.voices-of-change.org); Witness Freedom Ministries (http://www.witnessfortheworld.org); Parakaleo (www.parakaleo.co.uk); People Can Change (http://www.peoplecanchange.com); Positive Alternatives to Homosexuality (PATH) (http://www.pathinfo.org); True Freedom Trust (http://www.truefreedomtrust.co.uk); VENSER (http://www.venser.org); Regeneration Ministries (http://www.regenerationministries.org).

individuals, two men and two women, each of whom represents many thousands of others who have successfully made this transition. The fact that there are well-adjusted former homosexuals evidences that sexual orientation is not an immutable characteristic.

A. Stephen Black's Story

Stephen Black is an ex-gay who, after coming out of the homosexual lifestyle more than thirty years ago, married his wife Robin in 1986. They have three adult married children, one of whom is deceased, and two grandchildren. Stephen is an ordained minister and serves as the Executive Director of First Stone Ministries. Steve's journey is found at https://vimeo.com/84171226. Following are excerpts from his story.

> Sex became a distorted issue for me at an early age. I was molested about age six by a male friend of the family who was babysitting me. I was also exposed to some pornography at the same time. The porn was heterosexual, yet very devastating to my understanding of real love and sexuality.
>
> Several years later, our next-door neighbors had some out-of-state visitors. I was playing at their house, and was followed into the garage by the adult male visitor. He grabbed me from behind and began to molest me while warning me to keep quiet.
>
> After struggling with him for a few

minutes, I got away. I was terrified at what had happened. I went home and never told anyone. I thought it was my fault, because in the heat of the summer, I had been wearing cut-off shorts with no shirt.

About a year later, my family went on a trip to Colorado. We stayed with friends who had a son several years older than me. At bedtime, he began telling me about a "game" he had learned from a friend. That night, I was molested again, except this time I submitted to it because it was just a "game." A year later, he came to visit at my house and we "played the game" again.

As I went through high school, I met other homosexual men and started going to gay bars. Soon I had a new goal: to be "married" to another man.

Over the coming years, I pursued a marriage-type relationship with several men. I had one relationship that lasted two years. During this time, I started going back to the Catholic church. I was going to college and began living openly as a homosexual. My lover, Mike, was very wealthy and we lived in a beautiful home. I drove a new convertible and traveled to a lot of places.

Several months later, my little brother died. We were only 18 months apart and, for the first time in years, I began praying earnestly.

My relationship with Mike ended in a horrible fight; then I joined a health club, where I met a guy I thought was straight. But he had been exposed to homosexuality one other time earlier in his life, and was plagued with gay thoughts. Before long, we were sexually involved, even though he was married. I was torn up with guilt and developed an ulcer.

This man wanted to divorce his wife and move to another state with me. But I decided to end the relationship—I could not stand the guilt. I still longed for a relationship with a loving fatherly man.

. . . . My former lover would call me up, crying over the phone and begging me to reconsider my decision to leave him. But the Lord led me to a wonderful church where people really loved Him.

I began meeting weekly with my pastor, who became a spiritual father to me. He helped me to deal with the underlying root issues of my homosexual struggles, such as lust, anger and unforgiveness.

I also had to deal with the reality of being sexually abused as a child. When the anger and bitterness came pouring out, several men and women in my church prayed with me and ministered God's healing to my broken heart.

Some months later, Robin began attending my church. We became

> friends and were eventually married on May 25, 1986. Today we have a very fulfilling marriage and are parents of three children [one deceased] and [two] grandchild[ren].
>
> Marriage with a woman has brought me a deeper understanding of what it means to be a man. And marriage has revealed how selfish I really was, and how much I need to die to myself every day and love my wife like Christ loves the Church (Eph. 5:25). [5]

B. Richard Cohen's Story

Richard Cohen, M.A., is an ex-gay who is now married with 3 children. He struggled for much of his life with unwanted same-sex attraction. Richard is the founder of the International Healing Foundation (IHF) and the author of *Coming Out Straight*, *Gay Children Straight Parents*, *Let's Talk About Sex*, and *Alfie's Home*. Richard's journey is found at www.comingoutloved.com/Richard-Cohens-Story. Following are excerpts from his story.

> From middle school, I began to experience same-sex attractions. . . .
>
> . . . My same-sex desires got stronger with each passing year. I had more sexual experiences with school friends. For them it was a novelty, but for me it was a growing obsession. At the same time, I tried to act "normal," so I had girlfriends. But this growing

[5] https://vimeo.com/84171226

obsession for a man continued to haunt me.

. . . .

. . . In my first year of college, I had several boyfriends, each lasting several months.

After one visit home, my father wrote a letter that hurt me deeply. At the same time, I felt suffocated by my current boyfriend, Mike. Besides all that, my schoolwork was overwhelming. I decided to take a bottle of Bufferin and end it all. However, I woke up in the middle of the morning sick as a dog, and still alive. I called my sister, who lived nearby. She came over and took me to the emergency room at the hospital where they pumped my stomach and stabilized my condition.

I recovered, continued therapy, went back to school, ended my relationship with Mike, changed my major to theater, and felt a bit more hopeful. In my second year of school, I met Tim, an art major. We would become lovers for the next three years.

. . . .

. . . Since I loved Tim, I wanted to see why he loved . . . Jesus so much. For the first time in my life, I began reading the New Testament. As part of my Jewish upbringing, I was both bar-mitzvahed and confirmed, studying only the Old Testament.

I had always been on a spiritual quest, trying to find the meaning and purpose of life. I tried so many kinds of faiths and ways: Judaism, Buddhism, and therapies. Then I met Jesus. He was a remarkable individual. In fact, he was the kind of man I had always wanted to be myself. What I admired in him was that his thoughts, feelings, words, and deeds were one. He was a congruent man, the same inside as he was on the outside. He spoke of forgiveness and God's grace. These were new concepts for me. I wanted to be like him. This began my journey as a Christian. . . .

More and more, Tim and I knew that homosexuality was not compatible with God's Word, so we eliminated the physical part of our relationship . . . .

In 1982, Jae Sook and I married . . . . The first few months were wonderful. I told her about what I thought was my homosexual past. Then the problem resurfaced. I felt so much rage toward my wife. I projected onto Jae Sook all the pent-up hostility I had previously felt toward my mother.

. . . At home, Dr. Jekyll turned into Mr. Hyde, a rageaholic. I had become what I vowed I would never be—just like my father. My wife soon became pregnant with our first child. I knew I must begin therapy again. So, in May 1983, while living in New York City, I

went to see a noted psychologist. For one year, I attended weekly individual and group sessions.

. . . .

Slowly, my heart began to heal as I grieved the effects of the sexual abuse [from my youth] . . . . However, there was still a deep wound in the pit of my soul. We had had a second child during all this. Jessica was a beautiful girl.

. . . .

. . . I found a . . . friend who was willing to help me heal the homo-emotional wounds of my past. He himself was quite stable and comfortable in his masculinity. . . .

. . . In that instant, the connection between my childhood abuser and I was cut, and I became free for the first time in my life. With that sense of freedom, I sobbed for about an hour in [my friend] David's arms. It was such a release and relief to know that I wasn't responsible for what had happened and that God had forgiven me. In those moments of release, I found my freedom from same-sex desires. Cutting this neurological connection to the sexual desires freed me from thirty years of relentless pain and an endless pursuit of men.

. . . .

At the same time, I began graduate school to obtain my master's degree in counseling psychology. After graduation . . . I founded the International Healing

Foundation. My vision was to establish healing centers throughout the world to help men, women, and children to experience their value as children of God. This is still my vision, as we continue our journey.

I began to give public presentations on the process of transitioning from homosexuality to heterosexuality. I thought that, because of my heart toward the homosexual community, they would see that I was not their enemy, but just presenting another possibility for those who desire to change. I was naive. We received death threats at our home and at my office! We received obscene telephone calls at home with angry, venomous words of threat and accusation. The Gay and Lesbian Task Force of the mayor's office in Seattle requested that the American Red Cross fire me from my position as an HIV/AIDS educator. Many in the homosexual community have felt threatened by my work. I understand their fears and their pain.

Over the past 21 years, I have traveled extensively throughout the States, giving presentations about the healing of homosexuality on college and university campuses, in churches, in mental health institutions, at therapeutic conferences, and on TV and the radio.

> Another blessing occurred 15 years ago. God gave us a precious son, Alfie. He came on the foundation of our (God's) battles and victories. Now, Jae Sook and I and our three children are growing more deeply in love.
>
> I love God with all my heart, mind, and soul. I live to end His suffering and pain. I pray the understanding of same-sex attractions and the treatment plan for recovery that I am about to share is a blessing to you and those whose lives you will touch. I have learned over the past twelve years of counseling hundreds of men, women, and adolescents, and working with thousands of people in healing seminars around the world, that no matter what issue or issues we are facing in our lives, our wounds all originate from the same sources. . . .[6]

C. Melissa A. Ingraham's Story

Melissa A. Ingraham, who formerly self-identified as a "lesbian," resides with her husband Garry Ingraham, who is ex-gay, and two sons in Maine, New York. Melissa's identical twin sister never struggled with same-sex attraction. Melissa has a Master's degree in Counseling and was licensed as a professional counselor in New York in 2010. Melissa's story can be viewed at

---

[6] www.comingoutloved.com/Richard-Cohens-Story.

https://vimeo.com/84169427. Following are excerpts from her story.

> I grew up in a church-going family with an older brother and an identical twin sister. My father's business kept him on the road a lot, and by the time I reached high school, he was no longer coming home regularly. My parents hadn't agreed to separate, and as far as I knew, my mother never confronted him about leaving.
>
> I held a lot of anger inside towards my father. I also saw my mother as weak, passive, and a victim for not standing up for herself in the marriage. I vowed never to be like her—emotionally and financially dependent on a man. That vow profoundly impacted my relationships and my view of myself as a woman. In the moment I made that vow, I put a wall between my mother and myself, rejecting everything feminine, both the good and the bad. I believed that it was not safe or advisable to be a woman. This belief was further confirmed through my violent encounters with my brother when we would be home after school. We both had terrible tempers, and fought horribly. I always wound up on the losing end, feeling beat up and unprotected because my parents weren't there.
>
> Beginning in high school and continuing through college, I was

involved in several long-term, emotionally-dependent, sexual relationships with men. Reflecting on those relationships, I can see that I was searching for the affirmation, acceptance and worth that I had never received from my father. He wasn't around to bless me as a woman, and say, "You are okay, you are beautiful, you are acceptable." Although I claimed to be the one in control, on the inside I desperately needed to be with someone to have an identity.

I became engaged in my sophomore year of college, but I wasn't happy. Through conversations and other circumstances, I began to question my sexuality. I broke off the engagement, and after a year of confusion and searching, I entered a lesbian relationship. It lasted only a short time, but it was emotionally intense. I was devastated when it ended.

I was torn. I knew that my lesbian relationship was "wrong", and yet I felt that I had finally found what I was looking for—to be loved and cared for, and to be understood, affirmed, and accepted. The deficit of feminine love caused by my rejection of my mother cried out to be filled in the arms of a woman.

Interestingly, right before I left for Christmas break, I confided to a campus minister that I was struggling with

lesbianism. He told me it was okay to be gay and Christian. There it was. I could have the best of both worlds. And yet, there was no peace in that answer.

Over Christmas, my sister invited me to attend a Christian conference. I agreed to go, and attended a workshop on sexual wholeness . . . . I gave my life to Christ and repented of my lesbian relationship that day. The veil was lifted from my eyes, and I saw how I had been deceived into thinking that lesbianism was God's best for me because it felt so right.

. . . .

When I joined the Living Waters program offered by Regeneration in 1999, I found a place where I could be real about my sexual struggles and my brokenness. I began to understand the impact of the messages I had received from my family about men, women, and marriage. I also gained a great deal of insight into why I related to people in such broken ways and out of such great need. I learned how to forgive my parents and others, which allowed me to receive love from them in a deeper way. I also learned to confess my sins against God, my family, and others, and to receive forgiveness. Some of the sins I confessed were perfectionism, a need to be in control, relational idolatry, hatred of men, hatred of women, and self-hatred. I received truth about my

> identity in Christ—that I am a beloved, precious, beautiful, and cherished daughter of the King! My small group leaders and the leadership team affirmed my femininity and the goodness of being a woman. I could now enter into godly relationships with men and women, free to be who God created me to be.
>
> . . . .
>
> I experienced unparalleled freedom, and God began to birth a desire in me to help others in the healing process. . . .[I] pursue[d] a Masters Degree in Counseling. I graduated in August of 2006 and was licensed as a professional counselor in New York in 2010.
>
> . . . . I have wonderful, healthy friendships, and I am closer to my family. In the fall of 2004, I met my husband Garry. We were married in 2007, and now have two sons. It is difficult for me to describe the miracle of our marriage and how it really is an outward reflection of an internal reality. For me, being with Garry is about so much more than not being with a woman. God truly has restored my femininity and sexuality. God has shown me the fullness of a heterosexual relationship where both people are submitted to His will.[7]

---

[7] https://vimeo.com/84169427

C. Kristin J. Tremba's Story

Kristin J. Tremba, M.Div., is a former lesbian who is now married with a child. Kristin holds a Master of Arts degree from Columbia University, as well as a Master of Divinity degree from Gordon-Conwell Theological Seminary. She serves as director of Exchange Ministries and is the author of *Sexual Wholeness in a Broken World*. Her journey is found at http://pfox.org/Grove City College.pdf. Following are excerpts from her story.

> While my sister was attending [college], I was going to a small liberal arts college in Indiana. My freshman year I had high hopes to have fun at school, make lots of friends find my "calling" in life, and then get married. Instead, I found something unexpected and frightening happening: I was falling in love with my freshman roommate. The feelings I felt for her were the feelings I had hoped to have felt for the guys I had dated in high school. I was overwhelmed and confused and had nowhere to go. . . .
>
> . . . .
>
> . . . My roommate and I lived together all throughout college and one year after college, but we never talked about our feelings for one another or engaged in any physical sexual relationship. Regardless, we were a couple. We were emotionally dependent

upon each other (we viewed other people as a threat to our relationship, preferred to spend time alone and were frustrated when this didn't happen, became angry or depressed when the other withdrew slightly, lost interest in other friendships, and experienced romantic and sexual feelings for the other) . . . .

After college, I entered the Peace Corps, which required me to leave my roommate. This was not easy for either of us. However, on my flight to Albania, I prayed that God would bring a man into my life. Thus began my search for love and the hopes to marry again. I was 23 years old. In Albania, I found myself having sexual feelings for both men and a particular woman as I served as a volunteer. I lost my virginity and became more promiscuous with men.

. . . .

It was not soon after this that I fell into a sexual relationship with a woman who was openly gay, and who pursued me. In my loneliness and neediness for intimacy, I gave in to her and found being with her to meet a deep emotional need inside of me. This relationship continued until I moved to a different state for work. When I heard that she would be coming to live with me, I was euphoric and ready to come "out" of the closet, so to speak. I began telling friends, and I even attended a gay-

friendly church, but it all seemed so foreign and unsatisfying . . . .

. . . .

[Ultimately,] God taught me that sexual sin was my attempt to meet legitimate emotional needs in sexually illegitimate ways. He showed me that there were some emotional needs that had not been met in my family relationships growing up, there were some wounds, and so I was attempting to meet these needs and cover these wounds in sexual relationships as an adult. He taught me that there were also things I was born with: a sin nature, a particular temperament, various weaknesses, and a negative body image and negative view of my femininity. He taught me that even though I did not choose all my circumstances and struggles, I could choose to overcome them. I could choose to let God change my life.

. . . .

People ask me, "Do you still struggle with same-sex attraction?" My answer is no, I don't, but I still struggle with worry and doubt and lots of other things . . . .[8]

---

[8] http://pfox.org/Grove_City_College.pdf.

IV. The ex-gay community is subject to more animus, intolerance, and discrimination than any other minority group

The dramatic ascendency of GLBT political power and legal victories in recent years have been tragically accompanied by the diminution of rights of conscience and religious freedom.[9] Indeed, the rising tide of "sexual-liberty" has not lifted all boats. No other minority group has endured the brunt of growing intolerance, moral-cultural approbation, and derision more during this time of cultural upheaval than have former homosexuals.

Sadly and ironically, the primary instigators of ex-gay animus have been the very same gay rights groups and individuals who were themselves recently demanding social "tolerance" and "respect" for same-sex lifestyles and marriage. As the U.S. Court of Appeals for the Sixth Circuit observed, "[t]olerance," like respect and dignity, is best traveled on a "two-way street." *DeBoer*, 772 F.3d 388 at 410 (6th Cir. 2014), quoting *Ward v. Polite*, 667 F.3d 727, 735 (6th Cir. 2012). Yet, because ex-gays are a living rebuke of the inconvenient truth that that same-sex attraction is not immutable for Equal Protection purposes, former homosexuals have increasingly been subjected to very "unfriendly fire"

---

[9] Religious individuals and groups whose sacred texts define sexual relationships and marriage traditionally have been the target of increasing animosity, intolerance, and judicial and social defamation. They have been unfairly branded with terms such as "bigot," "homophobe," and as exhibiting hatred or "animus."

from some of their gay brothers and sisters who have sought to delegitimize them out of existence.

The *Windsor* majority stated that in "determining whether a law is motivated by an improper animus or purpose, 'discriminations of an unusual character' require careful consideration." *U.S. v. Windsor*, 133 S. Ct. 2675, 2692 (2013) (quoting *Romer v. Evans*, 517 U.S. 620, 633 (1996)). But unlike *Romer*, the state laws here limiting marriage to one man and one woman *are* neither unusual nor do they fail to be rationally related to states' legitimate public interest in regulating male-female relationships and their unique procreative possibilities. In *Romer* however, because the state had no valid reason for exempting only gays from anti-discrimination protections, the law was found to be "born of animosity toward" gays and suggested a design to make gays "unequal to everyone else." *Romer*, 517 U.S. at 634–35. And unlike *Windsor*, here there is no federal deprivation of a marriage status granted through a State's authority over domestic relations, and thus, there is no basis for the Court inferring that the purpose of the state law is to "impose a disadvantage"/"a separate status"/"a stigma" on gay couples. *Windsor* 133 S. Ct. at 2692-95.

Amicus does not agree that heightened scrutiny should be applied under the Equal Protection clause to laws involving sexual orientation, nor that state laws limiting marriage to one-man and one-woman are *not* rationally related to legitimate purposes. Yet PFOX brings to this honorable Court's attention the fact that ex-gays have *themselves* suffered significant discriminatory "animus" and endured

"disadvantage," "separate status," and "stigma," at the hands of gays.

Although there is extensive evidence confirming sexual orientation's fluid and transient nature, the widely embraced theory that same-sex attraction *must* be a fixed and "immutable" "accident of birth," contributes greatly to animus against ex-gays. This is because the very existence of former homosexuals undermines this popular yet false cultural narrative regarding the purportedly fixed origins of same-sex attraction. Amicus posits that the gay "immutability" myth was developed and fostered as a bold but clumsy attempt to analogize the GLBT movement with the African American struggle for civil rights and equal protection in order to appropriate its cultural moral authority.

As a result, former homosexuals are perhaps the last invisible minority group in America today (http://www.nytimes.com/2011/06/19/magazine/my-ex-gay-friend.html?pagewanted=all&_r=0). Ex-gays are reviled, ridiculed, and marginalized simply because they exist (http://www.christianpost.com/news/former-gay-activist-marries-woman-addresses-critics-who-condemn-his-new-heterosexual-lifestyle-110736). Consequently, many ex-gays and their supporters are forced to remain closeted, on the fringes of American culture, because of fear of societal disapproval and stigma.

It is true that individuals have experienced homosexuality differently and theories of the "causes" of same-sex attraction vary greatly. However, if one's sense of personal well-being is dependent on all other people who have experienced same-sex attractions having had an identical "gay

experience," then that person is in a precarious position, because actual experiences vary significantly.

Ironically, although gay organizations advocate for the "sexual liberty" rights of homosexuals, lesbians, bisexuals, transgenders, transsexuals, and the intersexed, they do not add 'ex-gay' to their list of the aggrieved and nearly uniformly oppose ex-gay rights.[10] Yet the inclusion of ex-gays ensures tolerance for *all* segments of our society. Acknowledging the ex-gay community exists and is worthy of respect and dignity does not mean that one is disloyal to the gay people we all know and love.

Due to its political powerlessness and a near singular focus on GLBT rights, the ex-gay community finds that Americans are not generally unaware of the widespread intolerance practiced against those who leave homosexuality. Here are some poignant examples:

• Transgender individuals are affirmed for changing their gender, but ex-gays are ridiculed for changing their sexual orientation.

• African American ex-gay Grammy winner Donnie McClurkin was removed from singing at a Martin Luther King memorial concert following complaints by gay leaders (http://www.christianpost.com/news/ex-gay-community-baptist-leadership-say-dc-officials-are-infringing-on-pastors-civil-rights-102212). Gay leaders also criticized then-presidential candidate

---

[10] Amicus is not aware of a single gay rights organization in the United States which supports the equal rights of the ex-gay community. Like all peoples, former homosexuals want to be open and safe at work, in their community, and in the public square.

Barack Obama for allowing Donnie McClurkin to sing at a fundraiser and insisted that he drop the singer from the program (http://www.youtube.com/watch?v=A3jkeTdgLrg).

• The World Bank removed Amicus, a non-profit corporation, from its charitable fundraising program after receiving complaints from the Human Rights Campaign, a pro-gay activist organization (http://www.hrc.org/press-releases/entry/hrc-to-world-bank-remove-pfox-from-your-community-connections-campaign).

• In response to complaints from gay organizations, Washington D.C. Mayor Adrian Fenty *apologized* for issuing a certificate of appreciation to an ex-gay organization. Yet in signing gay marriage legislation for the nation's capital, the mayor had promised equality for all D.C. residents (http://voices.washingtonpost.com/dc/2010/04/fenty_apologizes_for_honoring.html).

• Ex-gays and their supporters are routinely denied inclusion in all realms of society and access to public venues. Following complaints from local LGBT groups, an ex-gay billboard endorsing change and tolerance for all was taken down after three days in Tucson; the Montgomery County Maryland public school system amended its community flyer distribution program to prevent an ex-gay organization from participating; ex-gay conferences and events are frequently picketed; and a metropolitan transit authority cancelled its free public service advertising to prevent ex-gay organizations from participating.

• Gay rights groups are now wielding their considerable political power to aggressively oppose and outlaw much needed counseling and therapy for

men, women, and youth who struggle with unwanted same-sex attraction. These activities are carried on by organizations like The National Center for Lesbian Rights (http://www.nclrights.org/explore-the-issues/bornperfect/), Southern Poverty Law Center (http://www.splcenter.org/conversion-therapy) and Human Rights Campaign (http://pfox-exgays.blogspot.com/2012/05/wacky-wayne-besen.html).

These intolerant and discriminatory actions by GLBT activists "impose[s] a disadvantage, a separate status, as so a stigma" on gays who want to overcome unwanted same-sex attractions and former homosexuals who have successfully done so, "demean[ing]" and "humiliate[ing]" ex-gays. *Windsor*, 133 S. Ct. at 2693-94. Every day brings new hostile acts against former homosexuals, a politically unpopular group. This irrational prejudice against those who have overcome unwanted same-sex attractions perpetuates misunderstanding and harm against the ex-gay community. It also demonstrates a disregard for diversity and a refusal to respect basic human rights of dignity and self-determination. Unfortunately, recent judicial victories in same-sex "marriage" cases have empowered and emboldened words and acts of animus by loosely equating the legalization of same-sex marriage with proof of gay "immutability," providing further justification for the unfounded viewpoint that ex-gays "do not exist" and, therefore, should be ignored or banished from society and not allowed to participate in the marketplace of ideas and commerce (http://www.huffingtonpost.com/alec-fischer/this-is-what-happened-whe_1_b_6068712.html).

The negative stereotyping by gay activists of ex-gays is a sad end to the long struggle for tolerance by the gay community; the oppressed have become the oppressors. That ex-gays and their supporters are now the targets of the same people who, until recently, were victimized themselves, demonstrates the tremendous political power and social acceptance of gays and lesbians.

Yet, in spite of the significant and real animus ex-gays suffer, Amicus does not concur that unfounded claims of hatred or animus should be used as an excuse to redefine the important institution of marriage. Indeed, the Sixth Circuit, exhibiting appropriate judicial humility and restraint, recognized its inability to attribute animus to millions of voters: "If assessing the motives of multimember legislatures is difficult, assessing the motives of *all* voters in a statewide initiative strains judicial competence." *DeBoer*, 772 F.3d at 409. Thus, this honorable Court must not be quick to disparage, demean, and disrespect, with that monstrous moniker "animus," the good citizens of states whom have determined, for any number of legitimate reasons by participating in the democratic process, that marriage should remain defined as it always has been. To assume that prejudice or hatred is the primary driving force in maintaining marriages' traditional form, unnecessarily defames the good people of Michigan, Ohio, Kentucky, and Tennessee.

CONCLUSION

Same-sex attraction is not an immutable characteristic determined at birth, like race or gender. The growing public acknowledgment of ex-

gays and the personal testimonies of the individuals included above demonstrate that same-sex attraction is a phenomenon that can and does change. Sadly, because their very existence undermines the immutability narrative, ex-gays have been treated with hatred and disrespect by gay activist organizations. Homosexual sexual orientation is not pre-determined and fixed by "the accident of birth," but is in fact subject to alteration and change. Therefore, *Amicus* asks this honorable Court to not declare that sexual orientation is a new suspect class.

For the foregoing reasons, this honorable Court should affirm the decision of United States Court of Appeals for the Sixth Circuit.

Respectfully submitted,

Dean R. Broyles, Esq.
Counsel of Record
The National Center for Law & Policy
539 West Grand Avenue
Escondido, California 92025
(760)747-4529
dbroyles@nclplaw.org
Counsel for Amicus Curiae Parents and Friends of Ex-Gays & Gays

March 31, 2015